

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
LAK3, LLC

DEFENDANTS
Sean M. Dunn

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
AMINI LLC, 131 West 35th Street, 12th Floor, NY NY 10001
212-490-4700

ATTORNEYS (IF KNOWN)
Carlos J. Cuevas, Esq., 1250 Central Park Ave., Yonkers, NY 10704
914-964-7060

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Appeal from Bankruptcy Order Denying Motion to Vacate Dismissal Order pursuant to 28 U.S.C. 158.

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☐ Yes ☒ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☐ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS

CONTRACT

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 151 MEDICARE ACT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERANS' BENEFITS
- ☐ 160 STOCKHOLDERS SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

REAL PROPERTY

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

PERSONAL INJURY

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MED MALPRACTICE

ACTIONS UNDER STATUTES

CIVIL RIGHTS

- ☐ 440 OTHER CIVIL RIGHTS (Non-Prisoner)
- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- ☐ 446 AMERICANS WITH DISABILITIES - OTHER
- ☐ 448 EDUCATION

- ☐ 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY
- ☐ 365 PERSONAL INJURY PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING

- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

- ☐ 463 ALIEN DETAINEE
- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER

PRISONER CIVIL RIGHTS

- ☐ 550 CIVIL RIGHTS
- ☐ 555 PRISON CONDITION
- ☐ 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

FORFEITURE/PENALTY

- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY
- ☐ 21 USC 881
- ☐ 690 OTHER

PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS
- ☐ 830 PATENT
- ☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATION
- ☐ 840 TRADEMARK

LABOR

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY MEDICAL LEAVE ACT (FMLA)
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL RET INC SECURITY ACT (ERISA)

IMMIGRATION

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

ACTIONS UNDER STATUTES

BANKRUPTCY

- ☒ 422 APPEAL
- ☐ 28 USC 158
- ☐ 423 WITHDRAWAL
- ☐ 28 USC 157

SOCIAL SECURITY

- ☐ 861 HIA (1395f)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-THIRD PARTY
- ☐ 26 USC 7609

OTHER STATUTES

- ☐ 375 FALSE CLAIMS
- ☐ 376 QUI TAM
- ☐ 400 STATE REAPPORTIONMENT
- ☐ 410 ANTITRUST
- ☐ 430 BANKS & BANKING
- ☐ 450 COMMERCE
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 850 SECURITIES/ COMMODITIES/ EXCHANGE
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 896 ARBITRATION
- ☐ 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____ OTHER _____ JUDGE McMahon DOCKET NUMBER 20 civ 193

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☒ NO

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 137
IF SO, STATE:

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from (Specify District)

☐ 6 Multidistrict Litigation (Transferred)

☐ 7 Appeal to District Judge from Magistrate Judge

☐ a. all parties represented

☐ b. At least one party is pro se.

☐ 8 Multidistrict Litigation (Direct File)

ORIGIN

(PLACE AN X IN ONE BOX ONLY)

☐ 1 U.S. PLAINTIFF

☐ 2 U.S. DEFENDANT

☒ 3 FEDERAL QUESTION

☐ 4 DIVERSITY

(U.S. NOT A PARTY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE PTF DEF [] 1 [] 1

CITIZEN OR SUBJECT OF A FOREIGN COUNTRY

PTF DEF [] 3 [] 3

INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE

PTF DEF [] 5 [] 5

CITIZEN OF ANOTHER STATE [] 2 [] 2

INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE

[] 4 [] 4

FOREIGN NATION

[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

LAK3, LLC
1943 Beekman Court
Yorktown Heights, NY 10598

Westchester County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

8 Veschi Lane N
Mahopac, NY 10541

Putnam County

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN

DATE 2/4/2020

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT
[] NO

☒ YES (DATE ADMITTED Mo. _____ Yr. _____)

Attorney Bar Code # 4245965

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

LAK3, LLC

Plaintiff

vs.

SEAN M. DUNN

Defendant

Case Number

N.A. Appeal from 18-ap-9038

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

LAK3, LLC

Plaintiff

vs.

SEAN M. DUNN

Defendant

Case Number

20-cv-193. Appeal from 18-ap-9038

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

☒

Open

(If so, set forth procedural status and summarize any court rulings.)

On January 9, 2020, LAK3, LLC appealed an Order of the United States Bankruptcy Court dismissing an adversary proceeding for failure to prosecute. On January 13, 2020, this Court (McMahon, C.J.) entered an Order setting an appellate briefing schedule.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

In addition to filing the appeal referenced above, LAK3, LLC also filed a motion with the Bankruptcy Court to vacate the Order from which LAK3, LLC is appealing. On January 29, 2020, the Bankruptcy Court entered an Order denying that motion. LAK3, LLC now appeals that decision as well as seeks to consolidate the two appeals together. LAK3, LLC does not seek any modification to the existing briefing schedule.

Signature: _____

AMINI LLC

Date: 2/04/2020

Firm: _____